

United States District Court

Recd 10/23/06
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for

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Southern District of Ohio

U.S. DISTRICT COURT
 SOUTHERN DISTRICT OF OHIO
 WEST DIVISION CINCINNATI

Petition for Warrant or Summons for Offender Under Supervision

Name of Offender: Thomas Dwayne Phelps

Case Number: 1:02CR00126

Name of Sentencing Judicial Officer: The Honorable Herman J. Weber, United States Senior District Judge

Date of Original Sentence: March 7, 2003

Original Offense: Possession of a Firearm by a Convicted Felon

Original Sentence: 33 month(s) prison, 36 month(s) supervised release

Type of Supervision: Term Of Supv Rel

Date Supervision Commenced: February 14, 2005

Assistant U.S. Attorney: Anthony Springer

Defense Attorney: W. Kelly Johnson

PETITIONING THE COURT

- To issue a warrant
- To issue an Order to Appear and Show Cause
- To grant an exception to revocation without a hearing.

Violation NumberNature of Noncompliance

#1

On June 22, 2006, the offender was arrested and charged with Count A: Possession of less than 200 Grams of Marijuana, and Count B: Possession of Illegal Drug Paraphernalia Driver's License Suspension. The case is docketed under Criminal Case # 06B23434 A/B, in the Hamilton County Municipal Court. Details of the offense conduct revealed the offender was stopped during a traffic matter, and a strong odor of marijuana emanated from his vehicle. He also admitted having a marijuana joint on his person. A search of his vehicle produced a scale. The offender said he used the scale to "weigh his weed." On June 23, 2006, he was sentenced on Count A: Possession of Marijuana, to a fine of \$250, and Costs of \$85. On Count B: Possession of Illegal Drug Paraphernalia , the offender's license was suspended for 6 months and he was fined \$250, plus \$85 cost. This writer learned of this charge through an FBI Flash Notice, and subsequent record check. The offender failed to advise of this arrest within 72 hours, as required by his conditions of release.

#2

On July 19, 2006, the offender reported to the Probation Office and submitted a urinalysis which returned positive for Marijuana.

- #3 On September 8, 2006, the offender submitted a written monthly supervision report, via the United States Postal Services. On that report, the offender reported no contact with law enforcement officers, nor any arrests or pending charges for the month of June 2006. The report was dated July 4, 2006, and signed by the offender. The offender submitted a monthly supervision report containing false information/statements.
- #4 On October 5, 2006, the offender reported to the Probation Office and submitted a urinalysis which returned positive for Marijuana. Additionally, on October 10, 2006, the offender submitted a third urinalysis sample, which returned positive for Marijuana. Both urine specimens reveal the offender attempted to dilute his system to avoid marijuana detection.

U.S. Probation Officer Recommendation:

The term of supervision should be

- Revoked.
 Extended for years, for a total term of years.
 Continued based upon the exception to revocation under 18 USC 3563(e) or 3583(d)
 The conditions of supervision should be modified as follows:

I declare under penalty of perjury that
 the foregoing is true and correct.

Approved,

Executed on October 17, 2006

by

Michelle Merrett

U.S. Probation Officer

John Cole

Supervising U.S. Probation Officer

Date: October 17, 2006

THE COURT ORDERS:

- No Action
 The Court finds that there is probable cause to believe the defendant has violated the conditions of his/her probation/supervised release and orders the issuance of a Warrant for his/her arrest.
 The Issuance of an Order to Appear and Show Cause
 The Court finds the defendant can benefit from continued substance abuse treatment and grants an exception to revocation. The supervision term of the defendant is continued under all original terms and conditions.
 Other

Signature of Judicial Officer

Date